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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,364	07/25/2003	Paul R. Jannot	30618	2463
4717	7590	06/16/2006	EXAMINER	
DAVID A. GREENLEE P.O. BOX 340557 COLUMBUS, OH 43234			TYSON, MELANIE RUANO	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/627,364	Applicant(s) JANNOT, PAUL R.	
	Examiner Melanie Tyson	Art Unit 3731	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/25/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show elements 38b (page 4, line 2), 40b (page 4, line 2), 42b (page 4, line 2), 44b (page 4, line 2), 46b (page 4, line 2), 48b (page 4, line 2), 50b (page 4, line 2), 52b (page 4, line 2), 54 (page 4, lines 4 and 8), 58 (page 4, lines 4 and 8), and 136 (page 5, line 30) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it contains legal phraseology (comprises; line 2). Correction is required. See MPEP § 608.01(b).
4. The disclosure is objected to because of the following informalities:

The last paragraph on page 6 of the disclosure contains the phrase "such as the colored dots shown here." Since the drawings submitted are in black and white only, this phrase is improper and should be removed from the specification. Appropriate correction is required.

Line 15 on page 5 is an incomplete sentence. Rewrite line 15 in proper form. Appropriate correction is required.

5. The use of the trademark C-FLEX has been noted in this application (last sentence of the specification). It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koseki (Publication No. US 2003/0055439 A1) in view of Lahay (Patent No. 3,696,920).

It is noted that the applicant is invoking 112 6th paragraph. Regarding claim 1, Koseki discloses an apparatus for holding and arranging threads during surgical

operations (Figure 2, element 2). Figure 2 shows the apparatus (2) comprises an elongated body formed of resilient material (vinyl chloride or polyethylene foam; paragraph 13), having a plurality of slits (3) through the top of the apparatus (2) surface that are sized to receive and grip a surgical suture (or thread; paragraph 13). Koseki also discloses an attachment means (a hole 5 to insert cloth forceps) for attaching the apparatus to a supportive surface (covering sheet; paragraph 13). Regarding claim 4, Figure 2 shows the body has an elongated cruciform shape and a semi-cylindrical cross-section.

Regarding claim 1, Koseki does not disclose a means adjacent each slit for receiving and retaining a hemostat attached to a suture. Lahay discloses a device for organizing objects, more particularly, it relates to a device for use in a surgical operating theatre to organize various surgical instruments (column 1, lines 5-7). Unlike Koseki, Lahay discloses a means (channel 11) adjacent each slit (13) for receiving and retaining surgical instruments (column 1, lines 29-32), for example, a hemostat attached to a suture. The means adjacent each slit allows objects to be maintained in an organized configuration (column 1, lines 26-27). Therefore, to provide a means for receiving and retaining a hemostat attached to a suture on the apparatus of Koseki as taught by Lahay would have been obvious to one of ordinary skill in the art at the time the invention was made in order to keep the hemostats and sutures organized during surgery.

Regarding claim 7, Koseki does not disclose the body is made of a sterilizable material. Unlike Koseki, Lahay discloses the apparatus can be sterilized by a variety of

known sterilizing procedures (column 4, line 53-54), thus making the composition of the body a sterilizable material. Therefore, to construct the body of the apparatus of Koseki with a sterilizable material as taught by Lahay would have been obvious to one of ordinary skill in the art at the time the invention was made in order to avoid cross-contamination.

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koseki in view of Lahay as applied to the claims above, and further in view of Gossett (Patent No. 2,591,805).

Koseki in view of Lahay discloses a device as described above, however, Koseki in view of Lahay does not disclose a tapered pocket. Gossett discloses a device for holding implements. Figure 1 shows a pocket (between edges 26) that is formed when an implement is inserted there through. The pocket engages the screwdriver shank using edges (26) as a line of contact (column 2, lines 1-4). This configuration provides a secure hold for implements of widely varying thickness (column 1, line 5-7). It is obvious that the pocket would be tapered as a hemostat is inserted between edges (26) since a hemostat has a varying thickness, or a tapered shape. Therefore, to construct the pocket of Koseki in view of Lahay as taught by Gossett would have been obvious to one of ordinary skill in the art at the time the invention was made in order to provide a device that securely holds a hemostat during surgical procedures.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koseki in view of Lahay, in further view of Gossett as applied to the claims above, and in further view of Creelman (Patent No. 2,692,599).

Koseki in view of Lahay in further view of Gossett discloses a device as described above, however, Koseki in view of Lahay in further view of Gossett does not disclose indicia means located on the body adjacent each slit. Creelman discloses a device for holding surgical ligatures. Unlike Koseki in view of Lahay in further view of Gossett, Creelman discloses indicia means (Figure 1, element 28) such as letters of the alphabet or numerals (column 3, lines 15-18) located on the body (10) so that when the reconstruction phases of the operation are reached, the surgeon may know definitely without any confusion the ligaments or other body members to which they are fastened (column 4, lines 20-25). Therefore, to construct the device of Koseki in view of Lahay in further view of Gossett with indicia as taught by Creelman would have been obvious to one of ordinary skill in the art at the time the invention was made in order to identify the different ligatures during the reconstruction phases of the operation.

11. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koseki in view of Lahay as applied to the claims above, and further in view of Gabbay et al. (Patent No. 4,185,636).

Koseki in view of Lahay discloses a device as described above, however, Koseki in view of Lahay does not disclose a plurality of spaced pods. Like Koseki in view of Lahay, Gabbay et al. disclose a suture organizer (bottom portion of Figure 4). Unlike Koseki in view of Lahay, Gabbay et al. disclose a plurality of spaced pods (7) mounted on an elongated base. It would have been obvious to provide adjacent pockets as taught by Lahay on each pod for the same reasons provided in paragraph 8. Figure 7 shows the pods (7) are beveled on the surface, since they contain sloped edges, and

the thicknesses of the slits (portions between 7a and 7b) are narrower than the thickness of a suture (3), since they grip and maintain the sutures (3) in place. This configuration facilitates speedy and orderly surgical procedures (column 1, lines 14-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a plurality of pods as taught by Gabbay et al. on the flexible elongated body of Koseki in view of Lahay in order to provide a device that facilitates speedy and orderly surgical procedures.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Tyson whose telephone number is (571) 272-9062. The examiner can normally be reached on Monday through Thursday 7:30 a.m. - 5:00 p.m., alternate Fridays 7:30 a.m. - 4:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Art Unit: 3731

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie Tyson *MT*
June 7, 2006


ANH TUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER

5/12/06